IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.51 OF 2007

WITH

CIVIL APPLICATION NO.79 OF 2007

Dashrath Sonu Gaokar & Ors. ...Appellants

Versus

Ganeshan Ramaswami Devendra & Ors. ...Respondents

.....

Mr.S.G.Surana for Appellants.

Mr.Sanjiv A.Sawant for Respondents 1 to 3.

Mr.Anil Rao for Respondent No.7.

ALONG WITH

APPEAL FROM ORDER NO.53 OF 2007

WITH

CIVIL APPLICATION NO.81 OF 2007

Ganeshan Ramaswami Devendra & Ors. ...Appellants

Versus

Municipal Corporation of Greater

Bombay & Ors. ...Respondents

.....

Mr.Sanjiv A.Sawant for Appellants.

Mr.Anil Rao for Respondent No.4.

Mr.S.G.Surana for Respondent No.5.

CORAM: A.M.KHANWILKAR, J.

JANUARY 22, 2006.

P.C.

1. Both these Appeals are disposed of by this common order. The Plaintiffs during the pendency of the Suit for declaration and injunction, took out Notice of Motion for interim reliefs. By way of ad-interim relief, the Plaintiffs prayed that they may be allowed to participate during the video shooting to be undertaken by the Authority. That relief was granted. However, operation of that order was stayed by the Trial Court on the same day. Against the latter part of the order, the Plaintiffs have come up in Appeal being Appeal from Order No.53 of 2007, whereas, Defendant Nos.5 to 27 have come up in Appeal against the self-same Judgment and Order being Appeal from Order No.51 of 2007. This Appeal is pursued by the stated Defendants on the argument that three amongst the 644 hutment dwellers cannot be allowed to stall the entire development activity, and Suit at their

instance should not be entertained.

2. Insofar as the Appeal of the Defendants is concerned, in my opinion, that issue will have to be addressed while deciding the Notice of Motion and the Suit, which proceedings are still pending before the Trial Court.

3. Insofar as Appeal preferred by the Plaintiffs is concerned, it is not in dispute that the video shooting has already been completed. The grievance of the Plaintiffs was that in all probability, the video shooting will be conducted in biased manner. However, as the video shooting is already completed, the ad-interim relief pressed in that behalf does not survive for consideration.

4. It will be open to the Plaintiffs to agitate all questions before the Trial court in the pending Notice of Motion including to take out further application praying that the authorities be directed to undertake fresh video shooting, wherein, the Plaintiffs should be allowed to participate.

5. If such Application is filed, the same will be considered by the Trial Court on its own merits along with the Notice of Motion which is already pending for consideration.

6. It is made clear that all issues raised either in the Notice of Motion or Suit, or before this Court, are kept open to be decided by the Trial Court on its own merits in accordance with law.

7. For the aforesaid reasons, both these Appeals are disposed of.

8. In view of the above order, companion Civil Applications stand disposed of.

A.M.KHANWILKAR, J.